

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

FILED
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IN RE:

APPLICATION OF MEMPHIS NETWORKX, LLC
FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATION SERVICES AND JOINT
PETITION OF MEMPHIS LIGHT GAS & WATER
DIVISION, A DIVISION OF THE CITY OF
MEMPHIS, TENNESSEE ("MLGW") AND A&L
NETWORKS-TENNESSEE, LLC ("A&L") FOR
APPROVAL OF AGREEMENT BETWEEN MLGW
AND A&L REGARDING JOINT OWNERSHIP OF
MEMPHIS NETWORKX, LLC.

EXECUTIVE SECRETARY

DOCKET NO. 99-00909

RESPONSE OF APPLICANT AND JOINT PETITIONERS
TO OUTLINE OF PROPOSED CROSS
EXAMINATION BY INTERVENOR, IBEW LOCAL 1288

COME NOW, Applicant and Joint Petitioners and for Response to the Proposed Cross-Examination by the Intervenor, IBEW Local 1288 would state as follows:

1. Allowing cross-examination by IBEW, Local 1288, would interfere with the prompt and orderly conduct of the proceeding.

2. Applicant and Joint Petitioners would further object to the cross-examination by the Intervenor because, notwithstanding the admonition of the Pre-Hearing Officer, the Intervenor has demonstrated by the filing of the proposed cross-examination that the Intervenor IBEW, Local 1288, has little interest in the factual issues previously identified and

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approved by the Tennessee Regulatory Authority hereinafter "TRA") but rather desires to raise and ask questions about employment-related issues outside the scope of this proceeding and outside the jurisdiction of the TRA.

3. For further response to the listed paragraphs of the Outline of Proposed Examination, Applicant and Joint Petitioners would state:

(a) Questions about the impact of the Operating Agreement on the Memorandum of Understanding between Memphis Light Gas and Water and IBEW of January 1, 1998 are beyond the scope of this proceeding and the jurisdiction of the TRA. Intervenor IBEW, Local 1288, has presented no basis for including this examination within any of the previously identified issues nor within this proceeding nor the jurisdiction of the TRA.

(b) Questions about similar joint ventures in the future regarding gas, water, and/or electric operations are beyond the scope of this proceeding and the jurisdiction of the TRA. Intervenor IBEW, Local 1288, has presented no basis for including this examination within any of the previously identified issues nor within this proceeding nor the jurisdiction of the TRA.

(c) Questions about whether MLGW's interest in Memphis Network violates the provisions of Article II, Section 29 of the Tennessee Constitution are legal questions for the decision-maker, not cross-examination of witnesses. Indeed the time for filing legal briefs

has passed. Moreover, such examination would be duplicative of that of other parties absent a showing of its uniqueness and specific value to the proceeding. No such showing has been made.

(d) Questions about the extent, if any, MLG&W's participation as a member of Memphis Networx, LLC in the proposal to offer telecommunications service is affected by its charter or that of the City of Memphis are legal questions for the decision-maker, not cross-examination of witnesses. Indeed the time for filing legal briefs has passed. Moreover, such examination would be duplicative of that of other parties absent a showing of its uniqueness and specific value to the proceeding. No such showing has been made.

(e) Questions about the choice of a joint venture partner or the employment practices of a joint venture partner are beyond the scope of this proceeding and the jurisdiction of the TRA. Intervenor IBEW, Local 1288, has presented no basis for including this examination within any of the previously identified issues nor within this proceeding nor the jurisdiction of the TRA.

(f) Questions about future use of fiber optics technology to read meters or to provide other services currently provided by MLGW are beyond the scope of this proceeding and the jurisdiction of the TRA. Intervenor IBEW, Local 1288, has presented no basis for

including this examination within any of the previously identified issues nor within this proceeding nor the jurisdiction of the TRA.

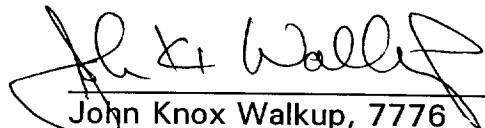
(g) Questions about the effect of the joint venture on ratepayers are beyond the scope of this proceeding and the jurisdiction of the TRA except to the extent that such questions relate to cross-subsidy issues already included in the issues list. Intervenor IBEW, Local 1288, has presented no basis for including its own examination within any of the previously identified issues nor within this proceeding and such examination would be duplicative of that of other parties absent a showing of its uniqueness and specific value to the proceeding. No such showing has been made.

(h) Questions about the state of belief of the Applicant and a Joint Petitioner about the public or private nature of the Applicant are beyond the scope of this proceeding. Intervenor IBEW, Local 1288, has presented no basis for including this examination within any of the previously identified issues nor within this proceeding nor the jurisdiction of the TRA. Furthermore, the questions ask about a legal issue and such matters are legal questions for the decision-maker, not cross-examination of witnesses. Indeed the time for filing legal briefs has passed.

THEREFORE, for the above reasons, Applicant and Joint Petitioners ask that the request of Intervenor IBEW, Local 1288, to cross-examine witnesses be denied.

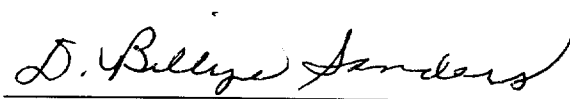
Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was forwarded to all parties of the record by U.S. Mail, postage, prepaid, on this 10th day of April, 2000.

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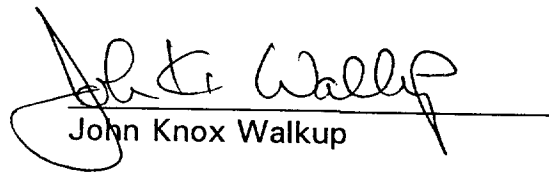
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